

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 17

BY DURST

AN ACT

RELATING TO LOCAL OPTION TAXATION; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 63, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE AUTHORITY FOR A TAXING DISTRICT TAX, TO PROVIDE FOR A TAXING DISTRICT TAX RECEIPTS FUND, TO PROVIDE GENERAL PROVISIONS FOR THE TAX, TO PROVIDE FOR COLLECTION AND ADMINISTRATION OF LOCAL OPTION TAXES BY THE STATE TAX COMMISSION, TO PROVIDE FOR DISTRIBUTION OF MONEYS AND TO PROVIDE FOR CHANGE OF A TAXING DISTRICT'S BOUNDARY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 63, Idaho Code, and to read as follows:

CHAPTER 46
LOCAL OPTION TAXATION

63-4601. LEGISLATIVE INTENT. The legislature hereby finds that the increase in growth of the population of certain local governments and the influx of great numbers of people traveling to those local governments have put a drain on infrastructure and put an inequitable burden on the property owners of those taxing districts. The legislature finds that it is both equitable and desirable to shift this tax burden in part from the property owners of the local governments to other taxpayers. The legislature also finds that this objective must be subject to the approval and supervision of the voters of the local governments both through their elected officials and through direct input at the ballot box.

63-4602. AUTHORITY FOR A TAXING DISTRICT TAX. The voters of a taxing district are given the authority to authorize their government to adopt, implement and collect a tax as allowed in this chapter. A taxing district shall mean a city, county, regional transit authority, school district, community college district or a single countywide highway district. The governing body of a taxing district is hereby given the freedom and authority to adopt, implement and collect a nonproperty and nonincome tax as provided herein if approved by the required minimum of sixty percent (60%) of taxing district voters voting in an election conducted on the first Tuesday after the first Monday in November in even-numbered years. If the taxing district conducts an election at a time other than the first Tuesday after the first Monday in November or incurs indebtedness as a part of the local option tax, a sixty-six and two-thirds (66 2/3%) majority shall be required. No local option tax proposal may be presented to voters of a taxing district for approval or modification for a period of fifty-one (51) weeks after an election to approve or disapprove such tax. The question presented to the voters of a taxing district shall state the rate and type of the local tax, the duration of the tax, which shall

not exceed five (5) years and the purposes of the tax. If a city or county has a local option tax in place it may collect either: a tax pursuant to this chapter if one is approved; or the city or county local option tax in place, but not both. The taxes authorized to be collected by a taxing district include sales and use tax pursuant to chapter 36, title 63, Idaho Code, a sales tax on the sale of motor fuel, notwithstanding the exemption in chapter 36, title 63, Idaho Code, an occupancy tax upon hotel, motel and other sleeping accommodations rented or leased for a period of thirty (30) days or less, a tax upon liquor by the drink, wine and beer sold at retail for consumption on the licensed premises, a tax on cigarette and tobacco products authorized in chapter 25, title 63, Idaho Code, and a tax on all products sold by the state liquor dispensary within the boundaries of the taxing district. Any tax imposed pursuant to this section may only be expended for lawful or constitutional purposes that the taxing district is authorized to administer.

63-4603. TAXING DISTRICT TAX RECEIPTS FUND. (1) Any taxing district that implements a local option tax pursuant to this chapter shall create and establish in the office of its treasurer a local option tax receipts fund. The treasurer of the taxing district shall submit to the board of county commissioners and the state tax commission a statement showing the balance in the fund as of September 1 of each year.

63-4604. GENERAL PROVISIONS. Any ordinance assessing a tax pursuant to this chapter shall contain a finding by the governing board of the taxing district based upon evidence presented to it that the conditions set forth in section 63-4601, Idaho Code, exist, and shall provide the methods for reporting and collecting taxes due. Taxes collected pursuant to any such ordinance shall be remitted to the taxing district official designated in such ordinance or other such official contracting, pursuant to this chapter, with the taxing district to provide collection services, and shall constitute revenue of the taxing district available for lawful public purposes of the taxing district. In any election, the ordinance submitted to taxing district voters shall: (1) state and define the rate and type of tax to be approved; (2) state that the revenues derived from the tax shall be used for lawful public purposes of the taxing district; and (3) state the duration of the tax which shall not be in excess of five (5) years. The clerk of the taxing district adopting an ordinance, or any amendment thereto, shall forward a copy of the ordinance or amendment to the state controller, the chairman of the state tax commission and the chairman of the state board of tax appeals.

63-4605. COLLECTION AND ADMINISTRATION OF LOCAL OPTION TAXES BY THE STATE TAX COMMISSION – DISTRIBUTION. (1) Any taxing district which has levied a tax pursuant to section 63-4602, Idaho Code, may enter into a contract with the state tax commission for the collection and administration of such taxes in like manner, and under definitions and rules of the state tax commission, for the collection and administration of any tax authorized to be collected pursuant to section 63-4602, Idaho Code. A taxing district that levies such tax shall have the right to review and audit the records of collection thereof maintained by the commission and the returns of taxpayers relating to such tax. Alternatively, such taxing district shall have authority to administer and collect such tax.

(2) All revenues collected by the state tax commission pursuant to section 63-4602, Idaho Code, shall be distributed as follows:

1 (a) An amount of money shall be distributed to the state refund fund sufficient to pay
2 current refund claims. All refunds authorized by the commission to be paid shall be paid
3 through the state refund fund and those moneys are continuously appropriated.

4 (b) An amount of money equal to such fee as may be agreed upon between the
5 state tax commission and such taxing district for the actual cost of the collection
6 and administration of the tax. The amount retained by the commission shall not
7 exceed the amount authorized to be expended by appropriation by the legislature. Any
8 unencumbered balance in excess of the actual cost at the end of each fiscal year shall be
9 distributed as provided in subsection (2)(c) of this section.

10 (c) All remaining moneys received pursuant to this chapter shall be placed in a fund
11 designated by the state controller and remitted monthly to the taxing district levying such
12 local option tax.

13 63-4606. TAXING DISTRICT PROPERTY TAX RELIEF FUND. Any taxing district
14 may establish a taxing district property tax relief fund into which may be placed all or any
15 portion of revenues received from any nonproperty and nonincome tax levied in accordance
16 with the provisions of this chapter. Such nonproperty and nonincome tax revenues may be used
17 to replace taxing district property taxes in the ensuing fiscal year by the amount of nonproperty
18 and nonincome tax revenues placed in the taxing district property tax relief fund, if taxing
19 district voters have approved of such use of nonproperty and nonincome tax revenues in the
20 election authorizing such taxing district nonproperty and nonincome tax. Any taxing district
21 that receives more revenues from any local option nonproperty and nonincome tax than such
22 taxing district has budgeted, shall establish a taxing district property tax relief fund into which
23 shall be placed all revenues received in excess of the budget amount, and such excess revenues
24 shall be used to replace taxing district property taxes in the ensuing fiscal year by the amount
25 of all excess revenues placed in said taxing district property tax relief fund.

26 63-4607. TAXING DISTRICT BOUNDARY CHANGE. Any taxing district which
27 implements a local option tax pursuant to this chapter may change its jurisdictional boundaries
28 for purposes of collecting the tax imposed pursuant to this chapter twice per year on January
29 1 and July 1. Any citizen or business located in an area proposed to be annexed shall be
30 given no less than six (6) months' notice of the taxing district's intention to annex them. Upon
31 establishing or changing boundaries, the taxing district shall report the boundary changes in
32 accordance with section 63-215, Idaho Code.